



**For Immediate Release**

**January 22, 2007**

**Senator Judd Gregg's Floor Statement**  
**On A Second Look at Wasteful Spending Amendment to Minimum Wage Bill**  
**(Unofficial Transcript)**  
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**Mr. Gregg:** If the Leaders have completed their statements, I would ask for recognition. Mr. President, first, let me begin by thanking the Majority Leader and the Republican Leader for their efforts here in allowing me to bring forward this amendment at this time.

As we know, last week I offered -- actually two weeks ago -- I offered this amendment. And at the time I offered it because I felt it was appropriate to the lobbying reform vehicle, as the lobbying reform vehicle had been greatly involved in what's known as the issue of earmarks.

Earmarks are where certain senators put in specific language into a bill which allows spending to occur for a specific item. Now I'm not inherently opposed to earmarks. Many are very genuinely of good purpose, and I've used it in cases to benefit programs which I thought were appropriate. And in fact, I think the Legislative Branch has a right to direct spending. If you don't direct spending in the Legislative Branch, then the Executive Branch has the authority to direct spending. The practical effect of that is the Legislative Branch is giving up one of its key powers, which is the power over spending. However, there have over the years been abuses of the earmark process. We all know that, and we've seen it. There have actually been abuses which have been unethical. We've seen that in recent times. And so, the key, I believe, to earmark reform is transparency and allowing the Congress and the people we represent to see what is being earmarked and allow the Congress to actually have to vote on it.

So the idea of the enhanced rescission proposal, which I have here, and I call it A Second Look at Waste proposal, is to allow the President to send back to the Congress items which he feels or she feels were inappropriately put in some other bill and which did not receive an up-or-down vote. Now how could that happen, people might ask? It happens very simply. A lot of vehicles that we pass here, a lot of laws that we pass here, a lot of spending proposals that we pass here, involve literally tens of billions, sometimes hundreds of billions of dollars in spending. And what will happen is these bills, which have these huge conglomerates of spending activity in them, which are known as omnibus bills, sometimes find embedded in them smaller items of spending which were

put in there for the purposes of accomplishing specific activity by specific members of the Congress, sometimes at the specific request of people who have been asking for those programs.

The President, of course, doesn't have a choice of going in and saying, well, that's a bad program or that's an inappropriate program. He must or she must sign the entire bill. The whole bill. A \$10 billion bill, a \$100 billion bill, a \$300 billion, that bill must be signed in its entirety. Pieces of it cannot be separated out.

So what this Second Look at Waste amendment does is allow the President on four different occasions to send back to the Congress a group of what would be earmarks in most instances for the Congress to vote on again. And essentially say to the Congress, those items which were buried in this great big bill, those specific little items, they should be reviewed, and Congress should have to vote them up or down. Congress then, by a majority vote, must vote on whether or not it approves those specific spending items. And that's called enhanced rescission. It is not a line-item veto. A line-item veto is where the President can go in and line-item out a specific item and then send it back to the Congress, and the Congress by a two-thirds vote must vote to override the President's proposal to eliminate the spending. In this instance, the Congress retains the right to spend this money if a majority of the Congress decides to spend the money in either House.

So as a practical matter, it's a much, much weaker, dramatically weaker proposal than what is known as the line-item veto, which passed here in the early 1990's and was ruled unconstitutional. It has been drafted in a way so it has been tracked very closely the language by Senator Byrd back in 1995 and was then called enhanced rescission. And we made one major change in the initiative which we proposed last week to make it even closer -- closer -- to the language of Senator Daschle and Senator Byrd in that we have included in this proposal which has been filed here today, enhanced rescission which includes the right to strike. What does that mean? That means that the Senate will have the right to look at the package of rescissions sent up by the President, which might be two, it might be three, it might be ten. And the Senate doesn't have to vote up or down the entire package. The Senate can actually go in and vote up or down specific items within that. So it even gives the Senate and the House, for that matter, significantly more authority over this process.

So the proposal we're putting forward is what we call A Second Look at Waste, what was called back in 1995 when it was offered by Senator Daschle and Senator Byrd as fast-track rescission. It is not a line-item veto. And I want to make this point, reinforce this point, because this is the Daschle language of 1995. This is the amendment which we have offered here today. You can see that the two agree on almost all the key elements. It establishes a fast-track process for consideration of rescission. Requires Congressional affirmations of the rescissions. We do the same thing. Allows the President to suspend for funds for a maximum of 45 days. We do the same thing. These are Daschle's proposals, Senator Daschle's proposals forwarded by Senator Byrd. Does not require the President to resubmit a rescission request. We do the same thing. Allows rescission of discretionary

funding and targeted tax benefits. We do the same thing. Only allows motions to strike, no amendments. So you can move to strike. The same thing as the Daschle amendment. Requires rescissions -- rescinded savings to go to the deficit so that it can't be respend. That also we do.

The two big changes we have from Senator Daschle's proposal are we allow mandatory rescissions of new mandatory programs. Not existing mandatory programs; you can't go and rescind a farm program that already exists or V.A. program. No. A new mandatory program. And we do not allow the rescissions to occur as often, or the President send up as many rescissions as he could under Senator Daschle or Senator Byrd's amendment. We only allow the President to send up four rescission requests. Under that amendment you could have arguably send up 13 amendments. So we've significantly limited the ability of the President to sort of game the system and also tie up the Congress.

So it's important to understand that this change we've made actually significantly increases the Congressional authority over the rescission process, as does this one on mandatory spending. Why do we put that in there? Well, because today 60% of federal spending is mandatory spending. And the simple fact is that if you don't address mandatory spending and new mandatory programs, then you're taking out the ability to really address the budget in a significant way.

Now I noticed when Senator Conrad, in one of his very well-stated statements in regard to this enhanced rescission, Second Look at Waste, said this puts a gaping hole in any agreement that would be reached between the Senate and the President on how to handle entitlements. I don't believe that. I think if the Senate and the President reach an agreement on how to handle entitlements, part of that agreement is going to be that the enhanced rescission program that's proposed here isn't going to apply. I mean, that's just logical, reasonable, and the way it's going to work. Obviously the Congress isn't going to give up that much authority if we're going to reach that type of huge agreement. I do hope we reach such an agreement. That would be really, really good for us as a nation to reach such an agreement.

Again I want to emphasize that we have put into this new amendment as it's been sent up the motion to strike. This was an issue of considerable disagreement on the floor. A lot of members felt that by not giving us a motion to strike, we were giving too much power to the Executive Branch on the issue of enhanced rescission. Senator Daschle, Senator Byrd, in their amendment of 1995, had that language in there. The Administration's not happy with that language. I can argue it both ways, but I think in order to have consistency between them both and because it is a significant right to retain with the Legislative Branch we've put it back in.

I also think it's important to note that any savings here go to deficit reduction. Deficit reduction should be our goal. If the President sends up something he thinks is wasteful and we agree that it's wasteful, let's rescind it and send it to reduce the deficit rather than rescinding it and sending it out to be spent. So I think it makes a lot of sense. Just to show you how different this is than the line-item veto, back in 1995 when we had the line-item

veto -- and remember, we passed the line-item veto -- 11 members of the other party, of the Democratic party, who are presently serving in the Senate voted for the line-item veto. Eleven members. Senator Baucus, Senator Biden, Senator Dorgan, Senator Feingold, Senator Feinstein, Senator Harkin, Senator Kennedy, Senator Kerry, Senator Kohl, Senator Lieberman, and Senator Wyden. I voted for the line-item veto. But that was ruled unconstitutional. That was dramatically more power given to the Executive Branch.

This basically gives no power to the Executive Branch other than to ask the Congress to take another look at a vote and vote again. So one would presume that folks who voted for the line-item veto back in 1995, unless they've changed their view, would be supportive of a much weaker rescission -- fast-track rescission approach here in 2007. In addition, the Daschle amendment, which, as I said, was supported by Senator Byrd and others, was supported by 20 current Democratic senators and which is essentially the same amendment as we're offering here today. Senator Akaka, Senator Baucus, Senator Biden, Senator Bingaman, Senator Boxer, Senator Byrd, Senator Conrad, Senator Dodd, Senator Dorgan, Senator Feingold, Senator Harkin, Senator Inouye, Senator Kohl, Senator Lautenberg, Senator Leahy, Senator Levin, Senator Mikulski, Senator Murray, Senator Reid, and Senator Rockefeller all supported the Daschle rescission language which is essentially the language which we've offered here today, especially now that we've put in the language relative to retain the power to strike.

And just to read a couple of quotes, which I think are very informative and very accurate. Back in 1995, Senator Feinstein said about the proposal, "Really, what a line-item veto is all about is deterrence. And that deterrence is aimed at pork-barrel spending. I sincerely believe that a line-item veto will work." and that was speaking of the line-item veto. Senator Feingold said that "The line-item veto is about getting rid of those items after the President has them on his desk. I think this will prove to be a useful tool in eliminating some of the things that have happened in the Congress that have been held up really to public ridicule." Now, that's the line-item veto those folks are talking about, much stronger language than this enhanced rescission language.

Senator Byrd on this language, the Daschle language, said, "The Daschle substitute does not result in any shift of power from the Legislative Branch to the Executive. It is clear cut. It gives the President the opportunity to get a vote...so I'm 100% behind the substitute by Mr. Daschle." Senator Dodd said, "I support the substitute offered by Senator Daschle. I believe it's a reasonable line-item veto alternative. It requires both Houses of Congress to vote on a President's recession list and sets up a fast-track procedure to ensure that the vote occurs in a prompt and timely manner." Very accurate statement as to what it does.

Then Senator Levin, "I, for instance, very much favor the version which the Senator from West Virginia has offered." This would be the Daschle amendment. "...which will be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I in good conscience can support." Senator Levin is, of course, one of our true constitutional

scholars in this institution. And Senator Biden in 1996 said, "Mr. President, I have long supported an experiment with the line-item veto power for the President," and so I supported line-item veto. And again, I note that this is nowhere near the line-item veto language.

In fact, this language has been vetted, vetted aggressively not only by Senator Daschle when he offered it back in 1995, but since then through a variety of individuals who are constitutional scholars. So to make sure that it settles the issue and does not in any way take from the Congress the power of the purse, which is the issue that, of course, was raised against the line-item veto in Clinton vs. The City of New York, which struck down the line-item veto on the grounds that it did go too far in violating the presentment clause. This language does not do that, because it retains to the Senate and to the House absolute authority over the spending. It simply asks them through the Executive to take a second look at an item that might otherwise -- and, in fact, in all practical purposes, never got a clear vote. It was something that was buried in some larger bill.

And because we've retained the right to strike, we've even gone further by saying that the entire package which the President sends up -- assuming he sent up more than one item to rescind -- would be subject to a right to strike. So the Congress has the ability to pick and choose in its second look process as to what it thinks makes sense and what it doesn't think makes sense. And there's probably going to be a lot of stuff sent up that the Congress agrees with, because some things happen in these major bills where items get in that people don't notice and that certainly a majority of the Congress feels probably if they took another look at it they would not be inclined to support it.

Equally important is the restriction here on the President which is different from the Daschle-Byrd amendment, which is that we only allow them to do this only four times. Four times. That's important. I'm willing actually to go back from four and maybe take it back further. Senator Lott came to the floor and said he didn't like the idea of four. If we get this thing moving along, I'm willing to take a look at fewer rescission packages. But the President, under the original Daschle amendment in 1995, had 13 shots at the apple, because he could do it on each appropriation bill. At that time, we had 13 appropriation bills. Now we have 12. But today under this amendment, he'll only have four chances to do this, four chances to package ideas and issues which he thinks were inappropriately buried in some bill, send them back up here and say, all right, take another look at this. 51 votes, I have to get 51 votes to support taking this item out.

What's the purpose of all this? I mean, that's the technical purpose in describing this, but what's the real purpose of all this? The real purpose is to get to the issue of managing the federal purse. You know, the Congress has the right to the federal purse. It is the most important power that Congress has. You know, I've listened to the Senator from West Virginia's explanation of this for many years and he it says it more eloquently than anyone else. And everyone has to agree with his position on that. The power of the purse is the power of the Legislative Branch. But this is about managing that power of the purse. This is about when a bill comes roaring through here that's \$300 billion, \$400 billion, \$500 billion, called an omnibus bill usually, and you've got to pass it because the

government closes down if you don't. This is about saying, all right, there's got to be a process where we can take another look at some specific items in that bill. Without giving up to the Executive power which the Executive shouldn't have, which is the capacity to line-item something and force us into a supermajority.

And that's what this is about. That's why I presume Senator Daschle offered it back in 1995. It's why I'm offering it today. Because in the end, it's going to give us better fiscal discipline over our own fiscal house. It's going to make us better stewards of the taxpayers' dollars. We're going to be able to say to the taxpayer, yes, that bill may have been a \$500 billion bill and maybe there were some things in there that we shouldn't have done. We're going to take a second look at that and make sure those things weren't wasteful. But we are going to pass the bill because we need to pass the bill to keep the government going but we're going to have a chance to take a second look at it. It's just good management. It's good management without giving up the authority of the Legislative Branch in any way, in my humble opinion.

So I would hope that members who take a look at this would consider this. I know it's been caught up in the dialogue of politics that's going to here. I regret that. I regret that last week it got caught up and was represented by some as being an attempt to poison the the lobbying bill. That was never my intention at all. I didn't even think of that, quite honestly, when I offered this amendment. I didn't know it was going to be so controversial. I thought I was just going to get a vote. That was not my intention. And I don't think it was quite honestly anybody's intention on our side. It got caught up in the broader fight of [politics] that we do sometimes around here. We let process overwhelm substance and it got characterized by the talking head community out there as both a legislative attempt to kill the lobbying bill and a legislative attempt to show the power of the minority and it wasn't any of that. It was just simply an attempt by me to bring forward what I thought was good legislation which would be constructive to our process of fiscal discipline around here, which happens to be one of my high priorities. Now it's back on the minimum wage bill.

Now, I greatly appreciate the Senator from Nevada and especially the Senator from Massachusetts and the Senator from Wyoming, who have to manage this bill, being courteous enough to allow their bill to already have an amendment on it that maybe isn't immediately related to their bill. This, however, was not my choice. I would have preferred to have it on the lobbying bill, which I think it was immediately related to. That's an earmark bill. It had a lot to do with earmarks. This has a lot to do with earmarks. But nobody can argue that this is the wrong vehicle because I didn't choose this vehicle. This vehicle was chosen for me as being the right vehicle to bring this up on. So that's why we're doing it here.

And when we get to this motion on cloture, I hope people will vote for it on its merits and will not vote for it on some procedural argument, such as it's the wrong vehicle to have this amendment on because, you know, I think people are sort of estopped, to use one of our legal phrases, from thinking this is on the wrong vehicle because as a practical matter

I was told to put it on this vehicle. I didn't choose it, I was told to. I'm just trying to be helpful. So that's why it's here.

That's the presentation in brief. There will be more discussion of this as we move down the road. I look forward to hearing from everyone, but I hope people will take a hard look at the actual substance of the amendment. Because substantively, it is not a line-item veto. It is nowhere near the line-item veto. It is essentially the daughter of Daschle, for lack of a better term. And I would hope that we would consider it on its merits as such. It will give us a chance to govern better and to handle the purse which we are charged with by our constituents, to handle it more frugally and efficiently.

I yield the floor.